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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/826,629	04/15/2004	Douglas Seefeldt	Seefeldt, Douglas	1305

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EXAMINER

LOWE, MICHAEL S

ART UNIT	PAPER NUMBER
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3652

DATE MAILED: 04/20/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/826,629	Applicant(s) SEEFELDT ET AL.	
	Examiner M. Scott Lowe	Art Unit 3652	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-11 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-11 is/are rejected.
- 7) ☒ Claim(s) 1,3,4,6 and 7 is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 15 April 2004 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date ____. | 6) <input type="checkbox"/> Other: ____. |

Drawings

The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the pine cone(s) must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Claim Objections

Claims 1,3,4,6,7 are objected to because of the following informalities:

Claim 1, line 12 should have a ":" instead of ";".

Claim 1, line 17 should start with "at" rather than "a" or be re-worded to make more sense.

Claim 3, line 4, it appears applicant meant "downwardly" rather than "inwardly".

Claim 4,6, applicant should be consistent with the description of "the tool body" as it is called "the body" in the other claims.

Claim 7 recites "its" which is confusing and should be replaced by "a" to avoid possible confusion.

Appropriate correction is required.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 7,11 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 7 recites the limitation "the radially inner **portions**" in line 4. There is insufficient antecedent basis for this limitation in the claim.

Claim 11 recites the limitation "the inner end portions" in line 32. There is insufficient antecedent basis for this limitation in the claim.

Claim 11 recites the limitation "the radially inner end portions" in line 34. There is insufficient antecedent basis for this limitation in the claim.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1,2,6-9 are rejected under 35 U.S.C. 102(e) as being anticipated by Edwards (US 6,619,022).

Re claim 1, Edwards teaches a device usable as a pine cone collecting and holding tool (column 8, line 1) comprising in combination:

an elongate tubular body 10 defining a medial channel and having an upper end portion 12 opening to said medial channel and a lower end portion 11 opening to said medial channel and defining first fastening means (not numbered) and;

an entry structure 30 having an annular peripheral rim defining an orifice geometrically similar to and larger than the lower end portion of the tubular body to fit over the lower portion 11 of the tubular body,

said peripheral rim:

defining second fastening means (not numbered) to releasably interconnect with the first fastening means of the body for positional maintenance of the peripheral rim on the body 10, and

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at least two resiliently deformable triangular-like fingers 41 spacedly carried about the inner surface 39 of the rim to extend radially inwardly spacedly distant from each other to define an orifice between the fingers to allow passage of pine cones therethrough upon deformation of at least one said fingers 41 responsive to force exerted upon the at least two of said fingers by the pine cones.

Re claim 2, Edwards teaches the body 10 and the peripheral rim 30 have circularly cylindrical configurations.

Re claim 6, Edwards teaches (figure 4) least one of the plurality of fingers 41 is angulated in a radially inward direction toward the tool body and at an angle of not more than about twenty degrees to a plane parallel to the peripheral rim.

Re claim 7, Edwards teaches (figure 3) each of the fingers defines a medial radially extending slot (not numbered) terminating in its radially outer portion in a bulbous enlargement (not numbered) to allow the radially inner portions of each finger 41 to move substantially independently of each other.

Re claim 8, Edwards teaches (column 4, lines 37,40; column 8, lines 3-7) the device made of plastics which would include polyethylene, etc.

Re claim 9, Edwards teaches (column 4, line 67 - column 5, line 4) first fastening means carried by the lower end portion of the body comprise external threads and the second fastening means carried by the inner surface of the rim of the entry structure comprises internal threads that matingly enmesh to releasably interconnect the body and the entry structure.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 3,4 are rejected under 35 U.S.C. 103(a) as being unpatentable over Edwards (US 6,619,022) in view of Layton (US 2003/0079891).

Re claim 3, Edwards does not teach having at least one manipulating handle extending radially outwardly from structural interconnection with the body spacedly inwardly from the upper end portion thereof. Layton teaches having at least one manipulating handle 64 extending radially outwardly from structural interconnection with the body spacedly inwardly from the upper end portion thereof to allow easier gripping of the device. It would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified Edwards by Layton to have at least one manipulating handle 64 extending radially outwardly from structural interconnection with the body spacedly inwardly from the upper end portion thereof to allow easier gripping of the device.

Re claim 4, Edwards as already modified by Layton teaches at least one manipulating handle 64 having a U-shaped body with similar opposed parallel legs extending perpendicularly from each end thereof, said legs carrying perpendicularly extending fastening brackets having means for fastening to the tool body.

Claim 5 is rejected under 35 U.S.C. 103(a) as being unpatentable over Edwards (US 6,619,022) in view of Crow (US 4,964,665).

Re claim 5, Edwards teaches (column 4, lines 15-16) the plurality of fingers of the entry structure may be in coplanar rows. Crow teaches there may be a single row of parallel resilient members 100. It would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified Edwards by Crow the plurality of fingers of the entry structure may be coplanar in order to save money (less fingers).

Claim 10 is rejected under 35 U.S.C. 103(a) as being unpatentable over Edwards (US 6,619,022).

Re claim 10, Edwards teaches (column 8, line 3-7) the device may be any desired dimension. It would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified Edwards to be any desired dimension for financial or aesthetics considerations.

Claim 11 is rejected under 35 U.S.C. 103(a) as being unpatentable over Edwards (US 6,619,022) in view of Layton (US 2003/0079891).

Re claim 11, Edwards teaches (column 8, line 3-7) the device may be any desired dimension. It would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified Edwards to be any desired dimension for financial or aesthetics considerations.

Edwards does not teach having at least two manipulating handle having a U-shaped body with similar opposed parallel legs extending perpendicularly from each end thereof, said legs carrying perpendicularly extending fastening brackets having means for fastening to the tool body. Layton teaches at least two manipulating handle 64 having a U-shaped body with similar opposed parallel legs extending perpendicularly from each end thereof, said legs carrying perpendicularly extending fastening brackets having means for fastening to the tool body.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Blyth (US 2001/0018822) teaches bifurcated teeth with bulbous channel ends.

Orr (US 6,398,278) teaches a pine cone collector.

Glass (US 5,490,701) teaches a pine cone collector.

Dowdey (US 3,658,371) teaches a pine cone collector.

Imig (US 2002/0130523) teaches a similar collector.

Green (US 5,433,491) teaches a similar collector with thread connections.

Stanworth (US 3,558,170) teaches a similar collector.

Summers (US 5,188,410) teaches a similar collector.

Jackson (US 5,310,153) teaches U-shaped handles.

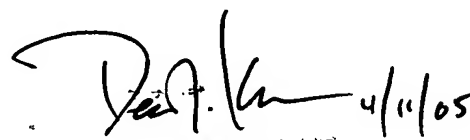
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Any inquiry concerning this communication or earlier communications from the examiner should be directed to M. Scott Lowe whose telephone number is (571) 272-6929. The examiner can normally be reached on 6:30am-4:30pm M-Th.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Eileen Lillis can be reached on (571) 272-6607. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

msl


DAVID L. LOWE
4/11/05